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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1936

No. [redacted] 16

HENRY O. HALE AND ELIZABETH C. HALE,
Appellants,

vs.

THE IOWA STATE BOARD OF ASSESSMENT AND REVIEW.

APPEAL FROM THE SUPREME COURT OF THE STATE OF IOWA.

STATEMENT OPPOSING JURISDICTION.

JOHN H. MITCHELL,
Attorney General of Iowa;
CLAIR E. HAMILTON,
Assistant Attorney General of Iowa;
LEON W. POWERS,
Counsel for Appellee.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1936.

No. 832

HENRY O. HALE AND ELIZABETH C. HALE,
Appellants;

vs.

THE IOWA STATE BOARD OF ASSESSMENT AND REVIEW.
Appellee.

STATEMENT AGAINST JURISDICTION OF THE SUPREME COURT OF THE UNITED STATES.

MAY IT PLEASE THE COURT:

The appellee, the Iowa State Board of Assessment and Review, now makes and files the following statement against the jurisdiction of the Supreme Court of the United States:

(A) SECTION 6944 OF THE IOWA CODE OF 1935 HAS BEEN CONSTRUED BY THE SUPREME COURT OF IOWA.

The Supreme Court of Iowa has always construed Section 6944 of the Code of 1935 to contain an exemption only from a general property tax.

Sioux City v. *School District* (1880), 55 Iowa 150, 7 N. W. 488;

Edwards & Walsh Construction Company v. *Jasper County* (1902), 117 Iowa 305, 90 N. W. 1006;

Iowa Mutual Tornado Ins. Assn. v. *Gilbertson* (1906), 120 Iowa 658, 106 N. W. 153;

State of Iowa v. *City of Des Moines* (1936), 266 N. W. 41 (not yet in Iowa Reports).

Referring to the above cases appellee calls the Court's attention to the fact that the present Section 6944 of the Iowa Code of 1935 is made of twenty-two subdivisions or paragraphs. This section made up of a portion of the subdivisions has been a part of the law of Iowa since the Code of 1851. That portion of the section exempting municipal, school, drainage or levy districts, and county bonds or certificates from taxation was enacted by Chapter 81 of the session laws of 1909. Prior to the enactment of 1909, the Supreme Court of Iowa had already construed the statute as containing an exemption only from a general property tax. The Iowa Legislature, when it amended the statute by granting an exemption to the classes of bonds involved in this action, knew that the statute which it was amending applied only to an exemption from a general property tax.

(B) THE CONSTRUCTION PLACED ON SECTION 6944 (5) BY THE SUPREME COURT OF IOWA IS CONCLUSIVE ON THE UNITED STATES SUPREME COURT.

The Iowa Court held that such statute contained an exemption only from a general property tax. The United States Supreme Court is bound by the Iowa decisions.

Atlantic Coast Line R. Co. v. *Goldsboro*, 232 U. S. 548, 58 L. Ed. 721, 34 Sup. Ct. Rep. 364.

(C) THE SUPREME COURT OF IOWA HAS CONSTRUED SECTIONS 6943-F-4 TO 6943-F-27 (PERSONAL NET INCOME TAX LAW) AS IMPOSING AN EXCISE TAX RATHER THAN A PROPERTY TAX.

Henry O. Hale and Elizabeth C. Hale v. *Iowa State Board of Assessment and Review.* (Decided January 19, 1937; not yet reported either in Iowa Reports or Northwestern Reports; copy attached to Appellants Statement as to Jurisdiction.)

(D) THE SUPREME COURT OF THE UNITED STATES WILL ACCEPT THE CONCLUSION OF THE IOWA SUPREME COURT THAT THE IOWA PERSONAL NET INCOME TAX LAW (SECTIONS 6943-F-4 TO 6943-F-27) IMPOSES AN EXCISE TAX RATHER THAN A PROPERTY TAX.

New York ex rel. Clyde v. *Gilchrist*, 262 U. S. 84, 43 Sup. Ct. Rep. 501, 67 L. Ed. 883;
New York ex rel. Troy Union R. Co., 254 U. S. 47, 41 Sup. Ct. Rep. 17, 65 L. Ed. 123.

(E) This case is governed by the decision of the United States Supreme Court in *New York ex rel. Clyde* v. *Gilchrist*, 262 U. S. 84, 43 Sup. Ct. Rep. 501, 67 L. Ed. 883.

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